

A&E 10-C Webinar Chat Q&A

October 24, 2017

#	Question	Moderator Response
1	Is a 10C still required for non-A&E contracts?	Yes, a 10-C is required for non-A&E but will only be sent to the Districts for verification to pay invoices. Our new 10-C procedure for reviewing and accepting 10-C's prior to award by HQ through the email aeoversight@dot.ca.gov is only for A&E contracts. Non-A&E contracts are still subject to audits.
2	Are there special instructions or requirements for Task Orders based awards?	10-C is not needed for task orders, only amendments. The on-call contract would have had a 10-C submitted previously for acceptance.
3	Can the Exhibit 10-C A&E Checklist be used for a list of 3 on-call consultants contract, which will be used for Federalized Contract Task Orders? Or will each project need to be procured separately?	If you have a list, then we wouldn't see a 10-C until you award a contract. If you have 3 on-call agreements actually awarded, we would see 10-C's for each of them separately. We are not requesting 10-C's for the task orders. However, we plan to remind you that with multiple on-call contracts (for the same type of work), you still have to do a QBS process and solicit RFP's to each consultant on-call and evaluate these in order to issue task orders.
4	What if its a Task Order based contract?	We will review the 10-C for the master on-call contract. The task orders can be issued to that specific contract without doing another 10-C.
5	Prior to 10/1, we were completing a 10-C form for all federally funded agreements. Does this mean that we no longer will be required to complete the 10-C form for non- A & E agreements?	The 10-C for non-A&E will be kept in your agency file and a copy sent to the District to verify in accordance with the invoice review checklist for invoices. We in HQ will not receive Exhibit 10-C's for non-A&E contracts at this time for review through aeoversight@dot.ca.gov. Non-A&E contracts are still subject to audits though.
6	I've been using the Exhibit 10-C for a contract I'm negotiating now. The version I got from your website didn't have the "Amendment" box. What else has changed on the form since 10/1? Since it's not an amendment, can I use the version I've been working with?	We added Section D for amendments and minor changes have been made since 10/1. You can use the version you have. We take all versions posted after 10/1. We will still make minor changes to the form that are suggested prior to January. After January 2018 when the LAPM is updated, we ask that everyone use the version posted in the 2018 LAPM update. After that, we do not plan to update the form until the 2019.
7	Does a contract that started before Oct 1,2017 and needs to be amended still go through the Reviewers checklist.	Yes. Please fill out Section D for amendments. You should have a 10-C completed for the original contract also in your file and at the District.

A&E 10-C Webinar Chat Q&A

October 24, 2017

#	Question	Moderator Response
8	Is retaining design consultant for use in responding to RFI's during construction and submittal review during construction considered as "management support role"?	Please see Office Bulletin 17-01 for Consultants in a Management Support Role. Basically, if a consultant is making decisions on behalf of the agency, it would be considered a management support role. If the consultant is providing services and is not making decisions on "Behalf" of the agency and the agency has an engineer or public works director overseeing the work/invoices, it would not. But I would read OB 17-01 for clarity. If you are unsure, submit the SOW and we can ask FHWA for verification.
9	We are about to release an RFQ for On-Call A&E Consultant and Project Delivery Services. We still need to have a 10-C and approval of the RFQ by Caltrans prior to release regardless of the funding source? Our agency receives various funding sources once taskers are issued against the on-call agreement.	10-C is required for all funding that is authorized by the Division of Local Assistance (state and federal). It is not needed for local funding or funding that is not authorized by DLA.
10	Can you make available to attendees a copy of all questions asked and answers provided? Thank you.	We will post the questions and answers from today's webinar online with the recorded webinar.
11	If we do not use the Conflict of Interest form 10-T, but have our own version of the conflict of interest that is signed and dated, is this acceptable?	Currently, you are allowed to use your own conflict of interest form.
12	Who can be an "independent estimator"? Can this occur within the agency?	Independent cost estimates are done by the agency prior to negotiations. You have to do a 9D for your DBE goal anyways, so you most likely have an ICE done prior to advertising.
13	Are 10-H forms required for subconsultants and data collectors?	10-H forms are required for all consultants and sub consultants. If you have Other Direct Costs (ODC), these will need itemized.
14	Participation by small businesses will be reduced when applying 10-H cost proposal requirements to state funded projects. Even with Safe Harbor Rate, this presents a barrier to participation by small firms. Are there programs available (CalMentor?) or being developed to address this? One suggestion: many times a subconsultant is brought on for a small amount of work; has consideration been given to waive the 10-H requirements for work below a certain dollar threshold, say \$25,000?	This is being consider by A&I and DLA at this time.

A&E 10-C Webinar Chat Q&A

October 24, 2017

#	Question	Moderator Response
15	It would not be necessary to complete a 10-H for state funded projects, correct? It is my understanding this is for federally funded projects.	State funded projects also need a 10-H. A&I is approving ICR's for both state and federal funded projects. Costs need to be broken out into the various components. All contracts follow 2 CFR 200.
16	If we include all required language however not the specific forms, i.e. Exhibit 10-I, is this acceptable or are we required to use the LAPM forms and Exhibits	The DBE forms are required. Exhibit 10-I (all solicitations), 10-O1 (no goals exempt), 10-O2 (all contracts regardless of goal).
17	If you are doing an RFQ followed by and RFP. Do you submit a 10-c twice (with RFQ and subsequent RFP) or just once (with the RFP)?	If you are doing the two-step process with an RFQ followed by an RFP (for example a complex project) we are asking for the 10-C on the RFP only (actual awarded contract). If you have a list, then we wouldn't see a 10-C until you award a contract. If you have 3 on-call agreements actually awarded, we would see 10-C's for each of them separately. We are not requesting 10-C's for the task orders. However, we plan to remind you that with multiple on-call contracts, you still have to do a QBS process and solicit RFP's to each consultant on-call and evaluate these in order to issue task orders. Basically, when you are actually awarding the contract we will request a 10-C.
18	"Oral Interviews", do they need to be conducted for all processes? Or just over a certain anticipated cost for the project?	Conducting oral interviews are determined by the agency. However, if you do oral interviews, they need to follow the same process and requirements as the initial evaluations.
19	Can we select more than one method of payment for on-call contracts; e.g., cost plus fixed fee and specified rates of compensation?	More than one method of payment can be specified in the solicitation. For example, on-calls can be specific rates of compensation with the task orders being actual cost plus fixed fee.
20	For an amendment, two years after issuance of contract, would the ICR stay the same as contract issuance year? Or, would it need to be for the year of amendment approval?	An ICR can be fixed for the life of the project if agreed upon by both parties. If not, it could change after 1 year at amendment, but new ICR needs approved by A&I.
21	Is it permissible to do an RFP/RFQ process for a specific project scope of work? For example, we want to select based on qualifications for a specific project and then negotiate the fees.	You would follow the two-step process. An RFQ for qualifications, then an RFP to those qualified firms for project specific work.
22	Is there a minimum estimate cost for the consultant work that triggers A&E Exhibit 10-C to be filled out? I heard \$150,000 earlier but I'm not sure.	There is no dollar limit for submitting the 10-C. We require the 10-C on every contract no matter the cost. A&I is only requesting their financial reviews for contracts greater than \$150,000.

A&E 10-C Webinar Chat Q&A
October 24, 2017

#	Question	Moderator Response
23	We are concerned that the 10-K submission to A & I will significantly delay execution of A & E contracts. What is the timeframe that A & I has committed to respond to our 10-K submittals? Also, can we execute the contract if we haven't heard from A & I within their committed timeframe?	A&I has communicated they are planning to keep the 30 day commitment for reviewing the financial documents. The ICR's are approved on an annual basis. So, once an ICR is approved for the year, the review is anticipated to be very quick and the 10-C can be submitted because you know you have an approved ICR already.
24	under what circumstances would an ICR be denied?	If an agency doesn't have a sufficient accounting system in place to segregate costs, is claiming unallowable costs, or has incorrect math in ICR determination formula.
25	Is 10-C required if no Federal or State funds are used for a phase of the work? For example, for design and environmental phase of the work.	A 10-C is only required for consultant contracts that have Division of Local Assistance funding (federal/state). If a phase doesn't have a consultant contract, a 10-C isn't needed. If a phase has only a locally funded consultant contract, a 10-C isn't needed.
26	For the adoption of the policies and procedures, does this need to be by resolution from City council?	The adoption of your policies and procedures would be based on your agency's policy. Council resolution may be necessary; or if your agency has delegated authority or a different process for approving policies and procedures you can use those.
27	So is it my understanding that only the 10C review checklist is being submitted without all the backup (contract, 10-01, cost estimate ect..) and it is up to each agency to keep the procurement documentation maintain in a file?	Only the 10-C is being requested at this time to do a risk based review. We are committing to a 5 day turn around. We designed the form so we can quickly find any flaws that could jeopardize funding. However, we plan to do process reviews later to determine accuracy of the 10-C and will request the backup documents then. We have to report on the compliance annually. An auditor will expect all backup support documents to be in your file in the event of an audit.
28	Can period of performance for project specific procurements be longer than five years?	Yes.
29	Invoicing is required 6 months after E76 is issued, so what if this process takes longer than 6 months?	That would be an agency determination. The review of the 10-C takes us 5 days. So, we would not determine or deter your schedule.

A&E 10-C Webinar Chat Q&A

October 24, 2017

#	Question	Moderator Response
30	If the initial contract amount is under \$150,000 and simplified procedure was used, then during the design phase the consultant asks for more money that brings it over \$150,000 then what procedure do we use?	The amount over \$150,000 is not eligible for reimbursement. The entire contract may also be considered ineligible. The small purchase procedure is designed for small contracts. If it is anticipated to be greater than the allowed threshold, do not plan on using the simplified procedure. Also, adding cost to a contract should be an agency decision based on need, not on consultant request.
31	This chart makes it look as though the review of 10-C and 10-H can happen simultaneously. However, we can't answer C.4.	The A&I financial review should be started before or during the 10-C review. True, for the first annual ICR approval you will need A&I determination to correctly fill in this answer. Again, we are committing to 5 days. I would do both simultaneously in case there are clarifications or changes needed.
32	How do we know if A & I has approved a consultant 10-K? We often submit the 10-K's and do not hear anything back from A & I.	Please view the spreadsheet located at https://audits.onramp.dot.ca.gov/external-audits-contracts .
33	What is difference between 10 H and 10H1?	They are based on different payment methods. 10-H is for Actual Cost Plus Fixed Fee or Lump Sum methods. 10-H1 is for Specific Rates of Compensation method.
34	can you explain question 3 of Section C 3 regarding fixed fee over 15% again? If it's over 15% will the contract approval be automatically denied?	According to 23 CFR 172.11 (b)(3)(iii) Fixed fees in excess of 15 percent of the total direct labor and indirect costs of the contract may be justified only when exceptional circumstances exist.
35	Do you need a DBE goal for the overall or umbrella on-call contract itself or just for the Task Orders for specific work/services?	You need a DBE goal for the overall master on-call contract. The task orders will also have a more defined goal that supports the original goal. Please see Training ii. Module 2 http://www.dot.ca.gov/hq/LocalPrograms/AE/index.htm and example page 38 http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-slides.pdf
36	If multiple funding sources are used for a project, does the entire project have to adhere to this A-E procurement policy?	If any of the funding sources used on the contract are authorized/allocated by Caltrans Division of Local Assistance, the entire contract must adhere to LAPM Ch. 10.
37	What is the website to see those 10-K reviews?	https://audits.onramp.dot.ca.gov/external-audits-contracts

A&E 10-C Webinar Chat Q&A

October 24, 2017

#	Question	Moderator Response
38	Could you clarify if the 10/1/17 requirements apply to the consultant contract date or the Local Agency contract date?	The 10/1 date refers to the agency award date of the consultant contract. If you don't have to go to your council/board for award, it would be the execution date signed by the agency. A 10-C is required regardless though. If prior to 10/1, it goes to the District. Post 10/1 it goes to HQ at aeoversight@dot.ca.gov.
39	When you say to refer to A & I online for consultant approval of ICR, are you referring to the "Caltrans Indirect Cost Rate Acceptance ID Log? Does the one that is currently posted include all approved ICR's?	It is my understanding that the log posted at: http://dot.ca.gov/audits/docs/caltrans-icr-acceptance-log.pdf includes the approved ICR's.
40	For D.2 please confirm the start and end dates.	The start date is for the amendment start date (the original contract start date and end date is captured on the first section of the form on the first page). The end date now includes the amended contract. Basically we want to ensure the amendment happened prior to the original expiration (or previous amendment) and if an on-call, the contract length doesn't extend beyond 5 years.
41	For D.6 please confirm the "Total Contract Amount" includes the original plus the amendment.	The total includes both. We want to ensure the thresholds such as the small purchase has not been exceeded.
42	Consider adding an NA option for D.10.	We will consider an NA option. A "yes" "no" is easiest for quantifying answers for our yearly report. If D.9 is no, D.10 will most likely be no.
43	Does D.5 mean amendments under \$150,000 are being treated as small purchase contracts?	Instructions should read "amended contracts greater than \$150,000 need 10-K/financial review". If a contract amendment causes the contract to exceed \$150,000, A&I review is necessary. If the amended contract is still less than \$150,000, A&I review is not necessary.